

# Federalism

## What is Federalism?

- A system of Government in which a written constitution divided the powers of government based on central and local government
  - Allows for local action when local action is needed and national action when national action is needed
- Both the central and local government have specific powers that it shares and specific powers that are delegated only to central and only to local

## Division of Powers

- The Constitution gives the central government any powers that are not specifically delegated to the states
- Expressed powers: those powers delegated to the national government expressly in the Constitution
  - Legislative Branch
    - Taxation (also seen on local level)
    - Making currency
    - Regulate foreign and interstate commerce
    - Raise a military
    - Standardized weights and measures
  - Executive Branch
    - Gives the president the power to be commander in chief
    - Grants pardons
    - Make treaties
    - Name federal officials
  - Judicial Branch
    - Gives power to the Supreme Court
- Implied Powers: powers that belong to the national government because it is the national government
  - Regulate immigration
  - Deport aliens
  - Acquire new territory
  - Diplomatic recognition of other states
  - Protect against rebellion or internal subversion

## Powers to denied to the national government

- Expressly denied
  - Place taxes on exports
  - Deny freedom of religion
- Constitution does not address:
  - Setting up a public school system
  - Setting up a local government
- Powers reserved for the states
  - Powers held by the states not given to the national government
  - Such as...
    - Can't marry unless 18
    - Require a license to do something (drive, practice law, practice medicine etc)
- Powers denied to the states
  - Can't enter a treaty, alliance, or confederation
  - Can't create currency
  - Can't tax the national government

## Exclusive Powers

- Powers only USED by the national government
  - Currency
  - Treaties
  - Etc

## Concurrent Powers

- Powers used by both the national and local government
- Held and exercised at the same time
  - Taxation
  - Set and define punishment for crimes

## Constitution is the Supreme law of the land

- Constitution
  - ↓
- Acts of Congress
  - ↓
- Treaties    ⇒    State Constitutions    ⇒    etc

- Supreme Court is the umpire set up to fix any problems that occur
  - McCulloch v MD
    - James McCulloch refused to pay a tax the state government said was due on his bank ( a federally funded bank; state's cannot tax a national government)
    - The case made it to court where it was determined he had to pay the bill
    - McCulloch appealed to the Supreme Court. Court determined that he didn't have to pay because the bank was set up by the national government and national government law is higher than state law

## Section 2

### United States Obligation to States

1. Guarantee a republican (representative) government
2. Protection against Invasion and Domestic violence
  - a. Any attack by an outside force or an act of God
  - b. Each state is expected to keep peace within the state. The federal government will only step in should the state ask for help
3. Respect for territorial Integrity
  - a. Boundaries of each state are recognized as belonging to that state
  - b. Congress cannot make a new state from an existing state
  - c. How to become a state in 5 easy steps
    - a. Request permission from Congress
    - b. State Convention is called to write a state constitution
    - c. State votes on constitution and sends it to Congress
    - d. Congress Approves/Disproves the Constitution by either sending the constitution back for further work or passing an "Act of Admission"
    - e. After the "Act of Admission" is passed, the President signs it and VOILA a state is created

#### 4. Cooperative Federalism

- a. Lots of conflict between national and local government; Lots of cooperation between national and local government
- b. National Government helps the States
  - 1. Federal grants in aid
    - a. Grants of federal money and resources to provided local government with funds needed to carry out day to day government in the state
      - 1. Schools/colleges
      - 2. Militia (national guard)
      - 3. Road construction
      - 4. Health care
  - 2. Block Grants
    - a. Grants that are given with a specific purpose
  - 3. Revenue Sharing
    - a. Congress used to share the money collected from the federal taxes with the states
  - 4. Other areas of Cooperation
    - a. FBI helps state and local police at times
    - b. Military helps train the National Guard in each state
    - c. Work together on the Census information

#### C. State helps the National Government

- 1. Election officials are shared during times of national elections
- 2. Naturalization (when people from other countries become citizens) occurs in the state court systems
- 3. Police Work

## Section 3

### States working together

1. Interstate Compacts
  - a. Congress Approved pacts between individual states and foreign states
2. Full Faith and Credit
  - a. The laws of states and records they keep are accepted by other states
    1. Applies only to civil matters not criminal matters
    2. Doesn't necessarily pertain to divorce
3. Extradition
  - a. Legal process in which a fugitive is returned from one state to another
  - b. Designed to prevent criminals being able to escape prosecution by going to another state
4. Privileges and Immunities
  - a. Resident of one state will not be discriminated against unreasonable by another state
  - b. Still have to obey laws of other states
  - c. States can restrict what you can do
    1. Vote or hold public office
    2. Require license for practicing law, medicine, education
    3. Nonresident might need to pay for a fishing license
    4. State colleges can charge an out of state person more